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USMCA & COVID-19: Opportunities in the Global Supply Chain

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OVERVIEW

- US trade & economic agenda
- USMCA key changes
- What does the future hold?
- Challenges & opportunities for companies
- Checklist to assist companies
- Resources to navigate USMCA implementation

US TRADE & ECONOMIC AGENDA

- **China** – HK; tariffs/exclusion extensions; export controls; national security EOs; government procurement; CFIUS
- **232 national security investigations** – transformers/components, mobile cranes, vanadium
- **232 aluminum tariffs** – reimpose on CA imports; CA retaliation
- **301 trade barriers/restrict US commerce** –digital services taxes: 25% tariff FR imports deferred (2021) & investigations on 12+ countries
- **WTO dispute retaliation (Airbus/Boeing)** – US tariffs on EU imports; pending EU tariffs on US exports

USMCA IN EFFECT JULY 1, 2020 – KEY CHANGES

- Stricter rules of origin in autos sector
- New “Rapid Response Labor Mechanism”— targeted sectors may include mining, steel and autos
 - Provides for an **independent panel investigation whether a specific facility is in compliance with MX's new labor reforms**
 - **Focus of the inquiry is whether workers at a specific facility in question were denied rights, as opposed to whether Mexico, as a country, breached the USMCA**
 - RRLM can be **triggered by a public petition** submitted to the US Labor Department
 - RRLM **allows US to take enforcement actions against individual factories** if they fail to comply with specific labor rights including domestic freedom of association and collective bargaining laws
 - Under RRLM's streamlined dispute process, **US could suspend preferential tariff treatment, suspend liquidation and/or block the entry of goods from noncompliant facilities within 125 days after initiating the dispute process**
- Cross border trucking safeguard
- Eliminates investor-state dispute settlement between US-CA; limits between US-MX
- Sunset provision

WHAT DOES THE FUTURE HOLD – THE LEAD UP TO ELECTION AND BEYOND

- **China** is and will continue to be one of the primary trade and national security issues in the fall election; neither Trump nor Biden campaigns will want to give appearance of easing on China policy
- Trump Administration trade agenda continued **focus on unilateral actions; tariffs as leverage; limited bilateral trade deals; China China China**
- Biden Administration economic policy agenda **focused on using federal government resources to revitalize American manufacturing and innovation and create high-quality jobs**
- Biden Administration support **“Buy American” government procurement and investment provisions; pro-American worker trade strategy; bring back critical supply chains to reduce dependence on China**

CHALLENGES & OPPORTUNITIES FOR COMPANIES

- Pandemic and US-China trade war creating **supply chain uncertainty**
 - **Tariffs** on China and EU imports **raising manufacturing costs** and cost of consumer goods
 - Opportunities to **build domestic and regional supply chain**, including in steel and aluminum sectors
 - Opportunities to **shore up regional logistics**, just-in-time delivery
- Regulatory and investor climate in Mexico – stay informed
- Opportunities for companies to **seek / take advantage of coming recovery initiatives**
 - Manufacturing, infrastructure, technology, pharmaceuticals ...

USMCA IMPLEMENTATION – CHECKLIST TO ASSIST COMPANIES

- ☐ Review whether exports to CA/MX are eligible for preferential (duty-free) treatment
- ☐ Come into compliance with new rules of origin, country of origin marking rules, certification of origin requirements (CBP six-month grace period is not without limitations)
- ☐ Meet recordkeeping requirements
- ☐ Assess risks to supply chain
 - ☐ Is manufacturing facility in MX vulnerable to labor investigation?
 - ☐ Consider opportunities to establish alternate supply sources in the US, Mexico and/or Canada
 - ☐ Monitor cross-border trucking tensions
- ☐ Engage with elected representatives (local, state, federal) & agency officials

RESOURCES – USMCA IMPLEMENTATION

Legal / Legislative Primary Documents

- USMCA – Text Of The Agreement. <https://ustr.gov/trade-agreements/free-trade-agreements/united-states-mexico-canada-agreement/agreement-between>.
- Protocol of Amendment to USMCA.
<https://ustr.gov/sites/default/files/files/agreements/FTA/USMCA/Protocol-of-Amendments-to-the-United-States-Mexico-Canada-Agreement.pdf>.
- USMCA Implementation Act. <https://www.congress.gov/bill/116th-congress/house-bill/5430/text>.
- USMCA Statement Of Administrative Action.
<https://www.finance.senate.gov/imo/media/doc/FINAL%20SAA%20USMCA.pdf>.
- Trump Proclamation On The Implementation of USMCA. <https://www.govinfo.gov/content/pkg/FR-2020-07-01/pdf/2020-14448.pdf>.
- Updated US Harmonized Tariff Schedule (HTS). The US International Trade Commission updated the Harmonized Tariff Schedule of the United States (HTS) to reflect USMCA-related and other revisions (<https://hts.usitc.gov/current>).

RESOURCES – USMCA IMPLEMENTATION (2)

Regulations / Government Guidance Documents

- USMCA Uniform Regulations Regarding Rules Of Origin. <https://www.govinfo.gov/content/pkg/FR-2020-07-01/pdf/2020-13865.pdf>.
- CBP Guidance on Implementing USMCA Rules of Origin (including six-month grace period).
<https://www.cbp.gov/sites/default/files/assets/documents/2020-Jun/Updated%20USMCA%20Interim%20Implementing%20Instructions%20-%202020%20Sep%2016.pdf>
- CBP USMCA portal. <https://www.cbp.gov/trade/priority-issues/trade-agreements/free-trade-agreements/USMCA>
- Regulations Regarding High-Wage Components Of The Labor Value Content (LVC) Requirements.
<https://www.govinfo.gov/content/pkg/FR-2020-07-01/pdf/2020-14014.pdf>.
- Interagency Labor Committee for Monitoring and Enforcement Procedural Guidelines for Petitions.
<https://www.govinfo.gov/content/pkg/FR-2020-06-30/pdf/2020-14086.pdf>.
- US-Mexico Government Procurement Of Goods And Services. <https://www.govinfo.gov/content/pkg/FR-2020-06-29/pdf/2020-13864.pdf>.
- USITC Interim Rules On USMCA Trucking Provisions.
<https://www.federalregister.gov/documents/2020/07/10/2020-13762/implementing-rules-for-the-united-states-mexico-canada-agreement>.

Thank you.
Let's continue the conversation.

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